

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 16,422
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Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition and Health Access (PATH) terminating her and her husband's Medicaid benefits based on excess income.

FINDINGS OF FACT

1. The petitioner and her husband are Medicaid recipients. In early March of 2000, they underwent a review which showed that their monthly income was \$1,587.90-\$1,214.40 from the husband's Social Security check and \$373.50 from the wife's. The Department subjected that total to a \$20 deduction and determined that the petitioners had a net countable income of \$1567.90 for Medicaid computation purposes.

2. The maximum income for a couple in the Medicaid program is \$708 per month. The petitioner and her husband were found to have \$859.90 per month in excess of that amount

each month. They were notified by a letter dated March 21, 2000 that their Medicaid would cease as of March 31, 2000 based on excess income but were advised that they could be eligible again if they met a spend-down amount. The spend-down amount was calculated by multiplying the \$859.90 per month excess by the six month eligibility period for a total of \$5,159.40. Because they had already submitted some medical expenses, the amount of the spend-down on March 21 was reduced to \$4,542.00. That amount was further reduced due to the submission of other countable medical bills and Medicare insurance premiums to \$3,844.26.

3. The petitioner does not disagree with the Department's income calculations but feels that she should be found eligible by virtue of large medical bills which she and her husband have. He has multiple sclerosis and is in need of some very expensive medical treatment. The petitioner said at the hearing that she had bills which had not been considered by the Department. The hearing was adjourned to allow the petitioner to submit additional bills and to verify some large mileage claims she was making due to medically necessary transportation.

4. On August 15, 2000, the Department notified the petitioner and the hearing officer that all of the medical

bills provided by the petitioner had been reviewed and that every item submitted had been allowed with the exception of bills that had been previously used to meet prior spend-downs. A total of \$1,014.97 was allowed for medical expenses and \$1,000 for mileage. The new spend-down was set at \$1,826.99. A representation was made by the Department that the petitioner did not indicate that she disagreed with the Department's inclusion of these bills or the new spend-down calculation.

5. The petitioner had has over a month to respond to the Department's allegation that they agreed with the amount of bills counted toward the spend-down. There has been no contention that there is presently any disagreement.

ORDER

The decision of the Department is affirmed.

REASONS

Social Security benefits are a completely countable form of unearned income under the Medicaid regulations. M241.2(3). The only disregard for which the petitioner appears to be eligible is the disabled deduction of \$20.00. M243.1(2). The petitioner and her husband's countable net income was

correctly figured at \$1567.90 per month. The protected income level for two person families residing outside of Chittenden County is \$708 per month. P-2420(B)(1). The petitioner's ineligibility for Medicaid is supported by the regulations.

The regulations also allow for eligibility for persons who have excess income in the following circumstances:

A person who passes all eligibility tests, except that his or her Medicaid group's monthly income is more than of the income tests for which he/she may be eligible (see P-2420B) may qualify for Medicaid coverage. To do so, he or she must show that his or her Medicaid group has paid or incurred medical expenses (see Medicaid Expense Deductions in the M430 Section) at least equal to the difference between its countable income and its Protected Income Level. This difference is called the "spend-down" requirement. Note that a person who does not pass any of the other applicable income tests must spend down to the Protected Income level and is not permitted to spend down to any of the higher income tests.

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The petitioner's original spend-down amount was correctly calculated under the above regulation. All of the medical expenses she has submitted have been used to reduce her spend-down amount for the six month period at issue. She still has not completely met her remaining spend-down amount (\$1,826.99). She may continue to submit medical bills until she reaches the amount. However, the petitioner should understand that a new accounting period will begin on October

1, 2000 and, unless her income situation has changed, she will need to meet another \$5,159.40 spend-down at that time to become eligible for Medicaid.

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